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|---------------------------|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.           | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/553,917                | 10/20/2005  | Thomas Gruber        | BA1525-248/08264    | 1095             |
| 24118                     | 7590        | 08/27/2009           | EXAMINER            |                  |
| HEAD, JOHNSON & KACHIGIAN |             |                      | CHAE, KYU           |                  |
| 228 W 17TH PLACE          |             |                      | ART UNIT            | PAPER NUMBER     |
| TULSA, OK 74119           |             |                      | 2426                |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |
|------------------------------|--------------------------------------|---------------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/553,917 | <b>Applicant(s)</b><br>GRUBER, THOMAS |
|                              | <b>Examiner</b><br>KYU CHAE          | <b>Art Unit</b><br>2426               |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 October 2005.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 October 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1668)  
 Paper No(s)/Mail Date 10/15/2007, 12/27/2007

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-25 are pending.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 4 and 13** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the phrase "for example" as used in **claims 4 and 13** renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-4, 8, 10-13, 17, 19, 23 and 25** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2003/0180032 A1 to *Barde*.

As to **claim 1, 10 and 19**, *Barde* discloses a menu generator device (1) for complementing video/audio signals (VA) with menu information (MI), which video/audio signals (VA) may possibly be divided into a plurality of sequences, comprising:

read-in means (2) for reading in the video/audio signals (VA) (Fig. 2, pg. 3, ¶¶0045, DVD file reader 220),

analyzing means (3) for generating video/audio identifying information (VA-ID) from the video/audio signals (VA) read in (Fig. 2, pg. 4, ¶¶0052, UI builder 224 can identify the DVD by virtue of a unique ID that is associated with the DVD and alternately the software that processes the DVD data can assign or otherwise compute the identifier),

communications means (4) for transmitting the video/audio identifying information (VA-ID) to a remote menu data server (20) (Fig. 2 & 3, pg. 4, ¶¶0059, metadata component 302 uses the DVD's unique ID and incorporates the ID into a URL that is sent to server 310) and for receiving, from the menu data server, menu data (MD) assignable to the video/audio identifying information transmitted (VA-ID) (Fig. 2 & 3, pg. 4, ¶¶0059, the server 310 accesses the DVD's metadata using the ID as an index into the metadata and then bundles the metadata and transmits it back over the network to the UI builder), and

menu generator means (5) for generating menu information (MI) from the menu data (MD) (Fig. 2 & 3, pg. 4, ¶0060, once received the UI builder 224 processes the metadata and uses it to populate the blank playlist structure) and for emitting the menu information (MI) for connection with the video/audio signals (VA) (Fig. 2 & 3, pg. 4, ¶0060-0061, populated playlist 306).

As to **claim 2 and 11**, *Barde* further discloses that the menu generator means (5) are arranged to generate parts of the menu information (MI), which parts of the menu information (MI) are assigned to respective sequences in the video/audio signals (VA), and in that the menu generator means (5) are arranged to emit the parts of the menu information (MI) for connection with the sequences in the video/audio signals (VA) (Fig. 3, pg. 4, ¶0060-0061 & 0067, title and chapters).

As to **claim 3 and 12**, *Barde* further discloses that the menu generator means (5) are arranged to generate parts of the menu information, which parts of the menu information contain time information on the relative or absolute starting times of the sequences within the video/audio signals (VA) (Fig. 5, pg. 5, ¶0071 & 0075, time information/durations for the title and chapters).

As to **claim 4 and 13**, *Barde* further discloses that the menu generator means (5) are arranged to re-calculate the time information as a function of sections extraneous to the content of interest that are contained in the video/audio signals (VA), e.g. commercials (Fig. 5, pg. 5, ¶0072, user is allowed to advance to particular parts of interest).

As to **claim 8, 17 and 23**, *Barde* further discloses that the analyzing means (3) are arranged to extract textual information comprising a broadcaster code and/or a time of transmission and/or a date of transmission, etc. from metadata connected with the video/audio signals (VA) read in, as the video/audio identifying information (VA-ID) (pg. 4, ¶0052, unique ID which is a 64-bit identifier that is assigned to the DVD e.g. When Harry Met Sally).

As to **claim 25**, *Barde* further discloses a device that is arranged to process a video/audio signal (VA), having a menu generator device (1) as claimed in claim 1 (Fig. 2 & 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
7. **Claims 5, 14 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2003/0180032 A1 to *Barde* in view of U.S. Pub. No. 2003/0068157 A1 to *Kushibe*.

As to **claim 5, 14 and 20**, *Barde* does not expressly disclose that the analyzing means (3) are arranged to extract textual information from the video/audio signals (VA) read in, as the video/audio identifying information (VA-ID).

*Kushibe* discloses when a CD is loaded in the disc changer, the key-image extracting unit reads the Table of Contents information recorded on the CD and accesses the Internet via the communication processing unit to download a jacket image of the CD from a predetermined website on the Internet based on the Table of Contents information (*Kushibe* Fig. 6, pg. 5, ¶0066-0067).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Barde* by extracting textual information from the video/audio signals read in, as the video/audio identifying information as disclosed by *Kushibe*. The suggestion/motivation would have been in order to identify the video/audio signal using the textual information contained in the CD.

8. **Claims 6, 7, 15, 16, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2003/0180032 A1 to *Barde* in view of U.S. Patent No. 6,577,346 B1 to *Perlman*.

As to **claim 6, 15 and 21**, *Barde* does not expressly disclose that the analyzing means (3) are arranged to extract audio information from the video/audio signals (VA) read in, as the video/audio identifying information (VA-ID).

*Perlman* discloses video segments are identified by recognizing patterns in the viewable portion of the video image data and/or in the video sound data (*Perlman* Fig. 4 & 6, col. 2, ll. 16-19, col. 8, ll. 28-36 & col. 9, ll. 33-41). *Perlman* further discloses if the pattern is unique to a specific video segment, that video

segment is identified by looking up the pattern in a table or another database that correlates or associates patterns with video segment identifications (*Perlman* col. 2, ll. 19-22).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Barde* by extracting audio information from the video/audio signals read in, as the video/audio identifying information as disclosed by *Perlman*. The suggestion/motivation would have been in order to identify the video/audio signal using the audio information contained video sound data (*Perlman* Fig. 4, col. 2, ll. 16-19 & col. 8, ll. 28-36).

As to **claim 7, 16 and 22**, *Barde* does not expressly disclose that the analyzing means (3) are arranged to extract video information comprising a single picture or a plurality of successive pictures from the video/audio signals (VA) read in, as the video/audio identifying information (VA-ID).

*Perlman* discloses video segments are identified by recognizing patterns in the viewable portion of the video image data and/or in the video sound data (*Perlman* Fig. 4 & 6, col. 2, ll. 16-19, col. 8, ll. 28-36 & col. 9, ll. 33-41). *Perlman* further discloses if the pattern is unique to a specific video segment, that video segment is identified by looking up the pattern in a table or another database that correlates or associates patterns with video segment identifications (*Perlman* col. 2, ll. 19-22).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Barde* by extracting video information

comprising a single picture from the video/audio signals read in, as the video/audio identifying information as disclosed by *Perlman*. The suggestion/motivation would have been in order to identify the video/audio signal using the audio information contained video image data (*Perlman* Fig. 4, col. 2, ll. 16-19 & col. 8, ll. 28-36).

9. **Claims 9, 18 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2003/0180032 A1 to *Barde* in view of U.S. Pub. No. 2003/0093790 A1 to *Logan*.

As to **claim 9, 18 and 24**, *Barde* does not expressly disclose that the menu generator means (5) have connected upstream of them menu data selecting means (6) that are arranged to allow the user-controlled selection of menu data (MD), from a plurality of sets of such data, for the generation of the menu information (MI).

*Logan* discloses that the menu generator means have connected upstream of them menu data selecting means that are arranged to allow the user-controlled selection of menu data, from a plurality of sets of such data, for the generation of the menu information (*Logan* pg. 8, ¶0103-0107, community markup system allows users to join a community whereby they will upload their improved markups to a central server so that other users may access them)

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Barde* by allowing the user-controlled

selection of menu data, from a plurality of sets of such data, for the generation of the menu information as disclosed by *Logan*. The suggestion/motivation would have been in order to provide multiple markups for the user to download to his/her liking (*Logan* pg. 8, ¶0103-0107).

***Examination Considerations***

10. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

11. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

12. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent *prima facie* statement.
13. Examiner's Opinion: ¶ 8-11 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

#### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - U.S. Patent No. 5,929,857 A to *Dinallo*.
  - U.S. Pub. No. 2001/0056471 A1 to *Negishi*.
15. Claims 1-25 have been rejected.

#### ***Correspondence Information***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KYU CHAE whose telephone number is (571)270-5696. The examiner can normally be reached on Mon-Fri, 8 a.m. - 5 p.m.; EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HIRL can be reached on (571)272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. C./  
Examiner, Art Unit 2426

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
August 25, 2009